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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,459	07/03/2003	Wilhelm Frey	10191/3283	6549
26646	7590	12/23/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			LE, THAO P	
			ART UNIT	PAPER NUMBER
			2818	

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/613,459		FREY ET AL.	
	Examiner		Art Unit	
	Thao P. Le		2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 11-25 and 28-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1 page</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

Acknowledge is made of applicants' claim for foreign priority base on an application 102 30 252.9 filed in Germany on 07/04/2002.

It is noted that Applicants have filled a certified copy of said application as required by U.S.C 119, which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 07/03/2003 was filed after the mailing date of the application. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Election/Restriction

Examiner confirms that Applicants elected to prosecute Claims 1-10, 26-27.

Claim Rejections

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-10, 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howe et al., "Post-CMOS modular integration of poly-site microstructures using poly-Ge sacrificial layers", pages 18-21 (submitted by applicant as prior art).

Regarding claim 1, Howe et al. discloses a method for forming an integrated microsystem comprising (See Fig. 4 and pages 18-20):

- providing at least one SiGe functional layer (fig. 4);
- providing at least one Ge sacrificial layer wherein the at least one Ge sacrificial layer is at least partially removed in an etching solution (Fig. 4);
- providing at least one open metal surface (CMOS structure, Fig. 4).

Howe et al. fails to disclose wherein the etching solution having a pH value is stabilized around a pH value of at least approximately 7 by using a buffer.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use an etching solution having a pH value of about neutral or 7 in order to protect the underlying layers, especially metal in CMOS structure, from damaging during the etching process because the etching solution at neutral pH would not affect the metal material. If the etching solution is too acidic or basic, especially acidic, the ions in the etching solution would react with the metal layer and also etch the metal layer. It is well known in the art that acidic etching solution (with pH of about 2-3) is used to etch away metal material. Therefore, in order to protect the underlying metal layer, one having ordinary skill in the art would use a neutral etching solution to etch the Ge sacrificial layer.

Regarding claims 2-3, it would have been obvious to one having ordinary skill in the art to choose buffer solution free of metals in order to prevent reactions between metal ions and buffer solution, and it is well known in the art that the buffer solution is used to maintain the pH value of etching solution.

Regarding claim 4, Howe et al. discloses the etching solution is made up at least partially of acidified hydrogen peroxide (abstract).

Regarding claims 5-10, 26-27, it would have been obvious to one having ordinary skill in the art at the time the invention was made that those chemicals such as peroxosulfate, chlorate, carbonate, bicarbonate, phosphorous anions, nitrate ions, ammonium acetate etc...are well known to be used to made up buffer solution.

If Applicants are aware of better art than that which has been cited, they are required to call such to attention of the examiner.

When responding to the office action, Applicants' are advice to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) day from the day of this letter. Failure to respond within the period for response will cause the application to become abandoned (see M.P.E.P 710.02(b)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao P. Le whose telephone number is 571-272-1785. The examiner can normally be reached on M-T (7-6).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on 571-272-1787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2818

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thao P. Le
Examiner
Art Unit 2818
December 20, 2004.